

§ 1.955

37 CFR Ch. I (7–1–06 Edition)

are present or should be raised, a Right of Appeal Notice limited to the identified issues shall be issued. Any appeal by the parties shall be conducted in accordance with §§ 1.959–1.983.

(c) The Right of Appeal Notice shall be a final action, which comprises a final rejection setting forth each ground of rejection and/or final decision favorable to patentability including each determination not to make a proposed rejection, an identification of the status of each claim, and the reasons for decisions favorable to patentability and/or the grounds of rejection for each claim. No amendment can be made in response to the Right of Appeal Notice. The Right of Appeal Notice shall set a one-month time period for either party to appeal. If no notice of appeal is filed, the *inter partes* reexamination proceeding will be terminated, and the Director will proceed to issue a certificate under § 1.997 in accordance with the Right of Appeal Notice.

INTERVIEWS PROHIBITED IN *Inter Partes* REEXAMINATION

§ 1.955 Interviews prohibited in *inter partes* reexamination proceedings.

There will be no interviews in an *inter partes* reexamination proceeding which discuss the merits of the proceeding.

EXTENSIONS OF TIME, TERMINATION OF PROCEEDINGS, AND PETITIONS TO REVIVE IN *Inter Partes* REEXAMINATION

§ 1.956 Patent owner extensions of time in *inter partes* reexamination.

The time for taking any action by a patent owner in an *inter partes* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the patent owner is due, but in no case will the mere filing of a request effect any extension. Any request for such extension must be accompanied by the petition fee set forth in § 1.17(g). See § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit.

[69 FR 56546, Sept. 21, 2004]

§ 1.957 Failure to file a timely, appropriate or complete response or comment in *inter partes* reexamination.

(a) If the third party requester files an untimely or inappropriate comment, notice of appeal or brief in an *inter partes* reexamination, the paper will be refused consideration.

(b) If no claims are found patentable, and the patent owner fails to file a timely and appropriate response in an *inter partes* reexamination proceeding, the reexamination proceeding will be terminated and the Director will proceed to issue a certificate under § 1.997 in accordance with the last action of the Office.

(c) If claims are found patentable and the patent owner fails to file a timely and appropriate response to any Office action in an *inter partes* reexamination proceeding, further prosecution will be limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time.

(d) When action by the patent owner is a *bona fide* attempt to respond and to advance the prosecution and is substantially a complete response to the Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, an opportunity to explain and supply the omission may be given.

§ 1.958 Petition to revive terminated *inter partes* reexamination or claims terminated for lack of patent owner response.

(a) If a response by the patent owner is not timely filed in the Office, the delay in filing such response may be excused if it is shown to the satisfaction of the Director that the delay was unavoidable. A grantable petition to accept an unavoidably delayed response must be filed in compliance with § 1.137(a).

(b) Any response by the patent owner not timely filed in the Office may be accepted if the delay was unintentional. A grantable petition to accept an unintentionally delayed response must be filed in compliance with § 1.137(b).